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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP NO.10046-2021 (O&M)

DATE OF DECISION: 27.04.2022

Sahab Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. R.S. Mamli, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

CM-5917-5918-CWP-2022

Applications are allowed, as prayed for, subject to all just exceptions.

Documents are taken on record.

Main case

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari to quash the order dated 28.04.2021 (Annexure P-16) and allow the petitioner to work till all the sanctioned posts are filled up as the petitioner is senior most contractual driver in the department.

2. Learned counsel for the petitioner submits that petitioner was appointed on contract basis against the sanctioned post of driver. He joined on 16.12.2013 under Part-II outsourcing policy and worked up to 25.06.2014 and again he was taken in service and worked continuously. Respondents wanted to replace the petitioner by some other contractual worker. He filed CWP No.10462-2015 wherein stand taken by the respondents was that they have no intention of replacing the petitioner. Thereafter, petitioner filed another CWP No.9813-2016 which is still pending wherein dispute is regarding the policies that when sanctioned posts are available then the petitioner has to be re-engaged through Part-II

policy and not Part-I policy. Petitioner has been working since 2013. Services of the petitioner have been terminated verbally on 30.04.2021. Learned counsel for the petitioner submits that many other contractual drivers are still working, who had joined much after the petitioner. Hence, the instant petition.

3. In view of the order dated 29.06.2015 passed in CWP No.10462-2015 since a direction was issued that “***services of the petitioner shall not be dispensed with till regular appointments are made***, which was disposed of vide order dated 01.09.2015 in the following terms:

*“Reply filed in Court today is taken on record.
Copy supplied.*

Respondents have stated that they have no intention of replacing the petitioner who is working on contractual basis with another set of employees on similar terms.

Be that as it may, then the grievance of the petitioner stands redressed and the petition is disposed of in terms of the reply filed by the respondents.”

4. In course of hearing, learned counsel for the petitioner strenuously argued that currently there are 3 sanctioned posts in the department and only 2 regular drivers have been appointed on the sanctioned posts and third remains vacant. Notwithstanding, vide an order dated 28.04.2021 (Annexure P-16) services of the petitioner have been summarily dispensed with without assigning any reasons and in violation of the stand taken by the department in the return filed to the aforesaid CWP, which was disposed of, on the basis of respondents undertaking that unless regular appointment is made, petitioner shall be allowed to continue.

5. In view of the conceded stand taken by the department, writ petition is disposed of with directions to the respondents that in case

regular appointee has not joined on the third post, the department shall remain bound by the undertaking/stand taken in the CWP No.10462-2015 and the petitioner shall be allowed to resume his duties subject to the third sanctioned post being vacant for non-availability of regular appointee, as has been contended by learned counsel for the petitioner.

6. Necessary exercise be carried out within a period of 30 days from today, needless to say, subject to the third sanctioned post being vacant.

7. Disposed of accordingly.

8. Pending applications, if any, also stand disposed of.

APRIL 27, 2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No